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NOTIFICATION.

No. L. 15402—C.M. 27-52-41, Bangalore, dated 5th December 1952.

In pursuance of Section 366 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act No. L. XIX of 1949), the draft of the following Rules which it is proposed to make under Section 68 of the said Act and in supersession of the Rules published in Notification No. L. 5321—C.M. 49-49-4, dated 2nd December 1949, in so far as they relate to the regulation of procedure for the election of the Mayor or the Deputy Mayor is hereby published, as required by clause (a) of the said Section 366 and notice is hereby given that the draft will be taken up for consideration on or after 1st January 1953.

Any suggestions with respect to the said draft received by the Secretary to Government, Local Self-Government Department, Bangalore-1, before the said date will be considered by the Government of Mysore.

1. Rules for the election of the Mayor or Deputy Mayor of the Corporation.

1. At a meeting of the Corporation held for the purpose of election of the Mayor or Deputy Mayor, any councillor may nominate another councillor for election by delivering to the person presiding at the meeting a nomination paper signed by himself as proposer and a third councillor as seconder, and stating (1) the name of the councillor nominated, and (2) that the proposer has ascertained that such councillor is willing to serve as Mayor or Deputy Mayor as the case may be, if elected. The names of all candidates proposed or seconded shall be read out by the person presiding at the meeting and the votes of the councillors present at the meeting shall then be taken by ballot. The Commissioner shall make adequate arrangements for securing the privacy of the ballot.

2. Every councillor wishing to vote shall be supplied with a voting paper on which the names of all the candidates shall be printed or typed in the following form :—

Name.	*Vote.*
(1)	.....
(2)	.....
(3)	.....
(4)	.....

Each councillor shall then proceed to the place set apart for the purpose and there place a cross mark against the name of the candidate for whom he wishes to vote. He shall then fold up the voting paper so as to conceal his vote and deposit the same in a ballot box. The ballot box shall be so constructed that the voting paper may be placed therein but not extracted therefrom, without the box being opened. The person presiding at the meeting shall then open the box and count the votes in the presence of the councillors and declare the result of the election.

3. If there is only one duly nominated candidate no ballot shall be necessary and he shall be considered to have been elected, provided that the proposal is carried by a resolution of the Corporation at the same meeting. If no such resolution is passed, a fresh election shall be held forthwith in accordance with these rules.

4. (1) If there are two candidates the one who secures the larger number of votes shall be declared to have been elected. If there is an equality of votes between the two candidates, the person presiding at the meeting shall draw lots in the presence of the councillors and the person whose name is first drawn shall be declared to have been elected.

(2) If there are more than two candidates, the one who obtains the smallest number of votes shall be eliminated and the votes taken again. If there is an equality of votes among all the candidates or if two or more candidates last in the list have obtained an equal number of votes, a ballot shall be taken in order to decide which of them shall be eliminated. If at such ballot there is an equality of votes, a further ballot shall be taken; and if this further ballot is also indecisive, the person presiding at the meeting shall ascertain by drawing lots in the presence of the councillors which of the candidates shall be considered to have been eliminated. The elimination shall be repeated until two candidates only are left, when votes shall be taken for the last time and the candidate who secures the larger number of votes shall be considered to have been elected. If there is an equality of votes at the final stages, between the two remaining candidates, the person presiding at the meeting shall draw lots in the presence of the councillors and the person whose name is first drawn shall be declared to have been elected.

5. No candidate shall take part in a ballot, but a candidate may withdraw at any stage and after such withdrawal, he may take part in any ballot. Similarly, a candidate who has been eliminated at any stage under Sub-rule (2) of the Rule 4 may take part in any ballot at subsequent stages.

6. Any voting paper which contains the signature or writing of any of the voting councillors or on which a cross mark is made against more than one name shall be invalid.

7. No election of the Mayor or Deputy Mayor shall be called in question except by an election petition presented in accordance with these rules to the Court of the District Judge, Bangalore Division, (hereinafter referred to as the Court) by any candidate against candidate (hereinafter called the returned candidate) who has been declared to have been duly elected.

8. The petition shall be presented within seven days of the date of the declaration of the results of election and shall contain a statement, in concise form, of the material facts on which the petitioner relies and the particulars of any corrupt practice which he alleges, and shall where necessary be devided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of the pleadings in the Code of Civil Procedure, 1908.

9 The petitioner may, if he so desires in addition to callings in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected; in such case he shall join as respondent to his petition all other candidates who were nominated for the election.

10. (1) At the time of the presentation of the petition, the petitioner shall deposit with it, as security for the costs of the same, a sum of two hundred rupees in cash.

(2) If the provisions of Sub-rule (1) are not complied with, the Court shall dismiss the petition.

(3) Upon compliance with the provisions of sub-rule (1), the Court shall proceed to enquire into the petition.

11. The Court shall, as soon as may be, cause a copy of the petition to be served on each respondent and on the Commissioner of the Corporation of Bangalore. Copies shall also be affixed to the Notice Board of the Court and of the Municipal Office. It may also call on the petitioner to execute a bond in such amount and with such sureties as it may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on furnishing similarly such security as may be demanded by the Court.

12. Every election petition shall be enquired into by the Court as nearly as may be, in accordance with the procedure, applicable to the trial of *suits in the Court of the District Judge, Bangalore Division.*

13. (1) No election petition shall be withdrawn without the leave of the Court.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made notice thereof fixing a date for the hearing of the application shall be given to all the other parties to the petition and shall be published as specified in Rule 11.

(4) No application for withdrawal shall be granted if the Court is of opinion that such application has been induced by any bargain or consideration which, it considers, ought not to be allowed:

(5) If the application is granted:

(a) the petitioner shall be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Court may think fit; and

(*b*) Such withdrawal shall be communicated to the Commissioner of the Corporation by the Court.

14. An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners and such abatement shall be communicated to the Commissioner of the Corporation by the Court.

15. Where at any inquiry into an election petition any candidate other than the returned candidate, claims that he himself has been elected, the returned candidate or any other party to the proceeding may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election.

16. At any enquiry into an election petition the Commissioner of the Corporation of Bangalore may appoint a legal practitioner or other person to attend and take such part therein as the court may allow.

17. If in the opinion of the Court:—

(*a*) the returned candidate, or any other person with the connivance of such candidate has committed or abetted the commission of any election offence punishable under Chapter IX-A of the Indian Penal Code, or

(*b*) the election of the returned candidate has been procured or induced or the result of the election has been materially affected by any of the following corrupt practice, namely:—

any election offence punishable under Chapter IX-A of the Indian Penal Code when committed by a person who is

not a candidate or a person acting with the connivance of a candidate.

(*c*) the result of the election has been materially affected by the improper reception or refusal of a vote, or by any non-compliance with the provisions of these rules the election of the returned candidate shall be void; subject to the provisions contained in the rule 18 below :—

Provided that if the Court is of opinion that any corrupt practice specified in clause (*b*) of this rule, which does not amount to any form of bribery other than treating as hereinafter explained has been committed and if the Court is further of opinion that the candidate has satisfied it that;

(*a*) no corrupt practice was committed at such election by the candidate and that any corrupt practices committed were committed contrary to the orders and without the sanction or connivance of such candidate; and

(*b*) such candidate took all reasonable means for preventing the commission of corrupt practices at such election; and

(*c*) the corrupt practices committed were of a trivial and unimportant and limited character; and

(*d*) in all other respects the election was free from any corrupt practice on the part of such candidate.

Then the Court may find that the election of such candidate is not void.

Explanation.—For the purpose of this rule 'treating' means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

18. If the validity of the election brought in question only on the ground of an error by the person or persons charged with carrying out these rules of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression 'ERROR' in this sub-rule does not include any breach of or any omission to carry out or any non-compliance with the provisions of these Rules whereby the result of election has been materially affected.

19. (1) At the conclusion of the enquiry the Court shall declare whether the election of the returned candidate is void under Rule 17,

(2) If it declares the election of the returned candidate void it shall further pass an order, either

(*a*) declaring that any other party to the petition who has under these rules claimed the office has been duly elected, or

(*b*) ordering a fresh election.

(3) The order of the Court under sub-rules (1) and (2) shall subject to the decision of the High Court under Rule 21 be final.

(4) A copy of every order under sub-rule (1) or sub-rule (2) shall be communicated to the Commissioner of the Corporation.

20. When an election is declared void under sub-rule (1) of Rule 19 and a fresh election is ordered under clause (*b*) of sub-rule (2) of Rule 19, the office of the Mayor or Deputy Mayor shall be deemed to be vacant from the date of the order of the Court and the authority concerned shall forthwith take the necessary steps for holding such fresh election.

21. An appeal shall lie to the High Court from the order of the Court on a point of law and such appeal shall be preferred within one month from the date of such order, exclusive of the time requisite for obtaining a copy of the order.

By Order and in the name of the Rajpramukh,

G. V. K. RAO,

Secretary to Government,

Local Self-Government Department.